

BEFORE THE BOARD OF LAND COMMISSIONERS AND  
THE DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the amendment of ARM        )  
36.25.110 regarding the rental rate for        )  
state grazing leases                                )

NOTICE OF PUBLIC HEARING  
ON PROPOSED AMENDMENT

To: All Concerned Persons

1. The Department of Natural Resources and Conservation will hold four public hearings at 7:00 p.m. on the following dates to consider the amendment of the above-stated rule:

September 12, 2011, at the University of Montana Western, Lewis and Clark Room, Mathews Hall, 710 S. Atlantic, Dillon, Montana;

September 13, 2011, at the MSU Great Falls Campus, College of Technology, Heritage Hall Auditorium, 2100 16th Avenue South, Great Falls, Montana;

September 14, 2011, at the Glasgow High School Auditorium, #1 Scotty Pride Drive, Glasgow, Montana; and

September 15, 2011, at the Miles City Community College, 2715 Dickinson Street, Room 106, Miles City, Montana.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the agency no later than 5:00 p.m. on September 1, 2011, to advise the department of the nature of the accommodation that you need. Please contact Kevin Chappell, Department of Natural Resources and Conservation, 1625 Eleventh Avenue, Helena, MT 59620; telephone (406) 444-3847; fax (406) 444-2684; e-mail [grazingfee@mt.gov](mailto:grazingfee@mt.gov).

3. The rule as proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

36.25.110 MINIMUM RENTAL RATES

(1) remains the same.

(2) The department may authorize a lease or license upon a basis other than cropshare. In those cases the rental shall at least equal the value of the usual landlord share prevailing in the district.

(a) Such accommodations may occur only once during the term of the lease unless changes in crops are contemplated.

(b) Such rental rate consideration may only be approved by the director upon proper written application by lessee or licensee.

(3) The rental rate for all grazing leases and licenses shall be on the basis of the animal-unit-month (AUM) carrying capacity of the land to be leased or licensed. The minimum annual rental rate per AUM is:

(a) the weighted average price per pound of beef cattle on the farm in Montana as determined by the Montana Agricultural Statistics Service of the U.S. Department of Agriculture (USDA NASS) for the previous year, multiplied by 13.18. ~~6.71 for grazing leases issued or renewed between July 1, 1993, and June 30, 2001, until the first date of renewal after July 1, 1993;~~

~~(b) the weighted average price per pound of beef cattle on the farm in Montana as determined by the Montana Agricultural Statistics Service of the U.S. Department of Agriculture (USDA NASS) for the previous year, multiplied by 7.54 for all grazing leases issued or renewed after June 30, 2001, and all grazing licenses.~~

(4) The department shall appraise and reappraise the classified grazing lands and grazing lands within classified forest lands under its jurisdiction in accordance with 77-6-201, MCA, to determine the carrying capacity.

(a) Such determination shall be made from time to time as the department considers necessary, but at least once during the term of every lease or license.

(b) Appraisal records shall be maintained in the department's files.

(5) Summer following shall not entitle any lessee or licensee to a refund or reduction of the rental. The lessee or licensee shall pay a rental price equal to:

(a) the rental price for the entire year when ~~When a lease or license term begins after February 28 but before July 1 during the first year of the lease or license; or, the lessee or licensee shall pay a rental price equal to the rental price for an entire year.~~

(b) the rental price equal to half of the yearly annual rental when ~~When the lease or license term begins after June 30 but before February 28 of the next year, the lessee or licensee shall pay a rental price equal to half of the yearly annual rental. Summer following shall not entitle any lessee or licensee to a refund or reduction of the rental.~~

(6) and (7) remain the same.

AUTH: 77-1-106, 77-1-209, 77-6-502, MCA

IMP: 77-1-106, 77-1-202, 77-6-201, 77-6-502, 77-6-507, MCA

REASONABLE NECESSITY: At the request of the Board of Land Commissioners, the DNRC commissioned a study from Bioeconomics, Inc. comparing the rates that the state charges for grazing leases, as compared to what other entities are charging. The study found that based on average state rental rates, the state is not obtaining full market value for its grazing leases. These amendments are reasonably necessary to update the formula used to calculate grazing lease rates in order to obtain full market value for the trust. The increase in the minimum grazing rental would impact approximately 4500 lessees. If all leases are continued into the future, the increase is estimated to generate an additional \$5.2 million annually. The amendments also correct minor grammatical and formatting errors.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearings. Written data, views, or arguments may also be submitted

to Kevin Chappell, Department of Natural Resources and Conservation, 1625 Eleventh Avenue, Helena, MT 59620; telephone (406) 444-3847; fax (406) 444-2684; e-mail [grazingfee@mt.gov](mailto:grazingfee@mt.gov), and must be received no later than 5:00 p.m. on September 30, 2011.

5. Kevin Chappell, Agriculture and Grazing Management Bureau Chief for the Department of Natural Resources and Conservation, has been designated to preside over and conduct the public hearings.

6. An electronic copy of this Notice of Public Hearing on Proposed Amendment is available through the department's web site at <http://www.dnrc.mt.gov>. The department strives to make the electronic copy of this Notice of Public Hearing on Proposed Amendment conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding conservation districts and resource development, forestry, oil and gas conservation, trust land management, water resources, or a combination thereof. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be sent or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

#### DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

/s/ Mary Sexton  
MARY SEXTON  
Director  
Natural Resources and Conservation

/s/ Tommy Butler  
TOMMY BUTLER  
Rule Reviewer

Certified to the Secretary of State on August 1, 2011.